

News from Ed Markey

United States Congress

Massachusetts Seventh District

FOR IMMEDIATE RELEASE

January 8, 2002

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MARKEY CALLS FOR INVESTIGATION OF FEDERALLY FUNDED BIOMEDICAL DISCOVERIES

Lawmaker questions whether royalty-free system is being enforced

WASHINGTON, D.C. --

Rep. Edward J. Markey (D-MA), a senior Member of the House Energy and Commerce Committee and co-chairman of the Alzheimer's Task Force, today released a letter calling on the General Accounting Office (GAO) to investigate whether many important federally funded medical discoveries end up benefiting taxpayers through their incorporation into inexpensive and widely available medical treatments, equipment and diagnostics, or through their widespread availability to other federally funded researchers.

"I've asked the General Accounting Office to undertake this investigation because I want to make sure that the taxpayers are getting their money's worth," said Rep. Markey. "This means both ensuring that other federally funded researchers can use these discoveries to do additional medical research, and ensuring that federally-funded technologies for new diagnostics and treatments for Alzheimer's disease, cancer, and other illnesses are provided royalty-free to Government programs such as those benefiting veterans, the elderly and the poor."

The Bayh-Dole Act of 1980, several Presidential Executive Orders and subsequent legislation were intended to allow the recipients of federal funding to patent, take title to and profit from inventions funded by the taxpayer. In return, the federally funded inventor had to comply with certain reporting requirements, and the government retained a nonexclusive, nontransferable, irrevocable and royalty-free right to use the inventions. Several recent reports have highlighted problems with the implementation of the law and associated regulations, and have raised questions as to whether the Federal government is either getting its royalty-free license, or using it when it is obtained:

- In August 1999, a GAO report stated that "the databases for recording the government's royalty-free licenses are inaccurate, incomplete, and inconsistent and that some inventions are not being recorded at all. As a result, the government is not always aware of federally sponsored inventions to which it has royalty-free rights."

- Press reports have detailed an ongoing Federal investigation of whether the government obtained royalty-free prices on its own scientists' purchases of Applied Biosystem's gene sequencer, the development of which reportedly used federal funds. Although these sequencers are used by many federally funded scientists to understand the human genome and the genetic causes for disease and to assist with the development of genetic diagnostics and cures, these scientists have reportedly had to pay full price for them.

Rep. Markey's request calls on the GAO to determine 1) whether federally-funded researchers follow the rules for reporting their discoveries, 2) whether the federal government is generally aware of the intellectual property it should have a royalty-free license to and 3) whether the federal government uses its royalty-free license to best benefit the taxpayers who paid for the discovery in the first place.

Rep. Markey concluded, "As the field of biotechnology continues to grow at an exponential pace, interest in the results of federally funded research into genomics and proteomics, stem cells, advanced biomaterials, and advanced computing will continue to be shared by academia and the private sector. Congress must assure that the public that funded this research is given ready and affordable access to the fruits of this research."

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